

What happens when a beneficiary of my Will is under 18?

Children and Wills

A Will is an important document that sets out what happens to a person's assets upon their death. It also appoints Executors, whose role it is to manage those assets and ensure the terms of the Will are carried out.

It is common for people to make a Will that nominates their children or grandchildren as beneficiaries. Sometimes, this includes children under the age of 18.
A child who inherits under a Will cannot take control of their own inheritance until they are at least 18 years old. This might raise a few questions in the Will maker's mind:
• Do I have to give the kids control at age 18? They might just spend their inheritance on a fancy car! Can I make them wait until they are older?
• What happens to the inheritance in the meantime?
• What happens to the inheritance if the unthinkable happens, and my child dies before they turn 18?

Age of control

You may be relieved to know that you can choose the age when the child will be able to control their own inheritance. Many people feel that 18 is too young and are more comfortable making a Will that specifies the age of 21 or 25 years.

Trustees for a minor child

Until the child reaches 18 (or the nominated age) the Executors of the Will are usually the Trustees of the child's inheritance. They will be responsible for decisions about how the inheritance is invested, and when and how funds are used for the child's benefit.
Will's prepared by lawyers usually give the Executors the scope to use the child's inheritance for a variety of important purposes, including payment of:
• School fees and other educational expenses
• Health related expenses
• Other living costs

Death of a minor beneficiary

If the child dies before they turn 18 (or the nominated age) any part of their inheritance which has not already been spent will usually be treated as if the child had died before the Will maker.

So, what does that mean?

It depends what the Will says. A properly prepared Will should account for unexpected deaths and make provisions to specify what happens to the remaining benefit.

If the Will doesn't spell this out, then the remaining inheritance will likely be distributed in line with the "Rules of Intestacy". These are rules set out by legislation, that set out who inherits a person's assets if they die without a Will (or with an incomplete Will).

The Rules of Intestacy usually result in a person's assets passing to family members, which often means spouse or partner and children, and sometimes includes parents, brothers, sisters, nieces or nephews. This could mean that someone that you did not want to benefit from your estate ends up inheriting from you, which is exactly what we want to avoid when we make a Will in the first place!

Do you want to make sure that your children gain control of their inheritance at the age you want? And, ensure that the people looking after their inheritance in the meantime are the people chosen by you, with appropriate powers to use the money? Not to mention, ensuring that appropriate backup provisions are in place? If so, it is crucial to have your Will prepared by a lawyer who is experienced in Wills and Estate Planning.

The information in this article is general in nature and was accurate at the time of publication. Laws and circumstances can change. For advice specific to your situation, please seek professional legal advice.